a) contacting the agent to be tested with the [a] FADD fragment of claim 3 or 5, comprising the N-terminal portion of FADD bound to a solid support under conditions favoring binding of the N-terminal portion of FADD to its ligand;

b) detecting the presence of any complex formed between the FADD fragment and the agent, wherein the presence of complex being indicative that the agent binds to the N-terminal portion of FADD[; and

c) analyzing the results of step b) to determine how the agent modulates the cellular function regulated by FADD].

II. REMARKS

Claims 1-5, 21, 23, 29, 30, 37-43, 45, 46, 48, 49 and 53-60 are currently pending in the subject application. Claim 57 is objected to as allegedly being of improper dependent form. Claims 57 and 60 are objected to as being dependent upon a rejected base claim. Claims 53 and 59 are withdrawn from consideration as being directed to a non-elected invention. All remaining claims stand rejected on various grounds.

Claims 53 and 57 have been canceled without prejudice or disclaimer. Applicants expressly retain the right to file one or more continuation applications directed to the same or similar subject matter. The cancellation of the claims is not a dedication to the public of the subject matter of the claims.

The amendments to the claims are made in a sincere effort to place the application in condition for allowance or in better form for consideration on appeal. The amendments were not made earlier because Applicants maintain that the claims as previously presented define patentable subject matter.

The amendments to claims 2, 3, 37-43, and 58, are to further describe the structure of the FADD protein. Support for the amendments is found throughout the specification as filed. Support for the amendments to claim 45 is found in the specification on page 3, lines 4-5 and page 14, lines 19-23, *inter alia*. Claim 57 is amended to clarify which function is modulated by the Fas receptor pathway. Support for the amendment is found throughout the specification as

filed An issue of new matter is not raised by these amendments and entry thereof is respectfully requested. Accordingly, claims 1-5, 21, 23, 29, 30, 37-43, 45, 46, 48, 49 and 54-58 and 60 are presently under examination. Consideration on the merits is respectfully requested.

Formal Matters

In complete reply to the final rejection, non-elected claims 53 and 59 are canceled herewith. Figure 2C is objected to because the figure does not show the arrow described in the specification. A corrected Figure 2C is submitted herewith to show the arrow described on page 4, lines 4-6, and as shown in originally filed Figure 2B.

35 U.S.C. § 112, First Paragraph

The specification is objected to, and claims 2, 29-30, 57-58 and 60 stand rejected under 35 U.S.C. § 112, first paragraph. The Examiner alleges that the specification fails to enable the full scope of the claims because the claims do not contain the structure of a FADD protein. In response to the Examiner's objection, but without conceding the correctness of the Examiner's position, claims 2 and 58 are amended herein thereby obviating the grounds for objection and rejection. Claim 60 depends on claim 58. Claim 57 has been canceled without prejudice or disclaimer. Reconsideration and removal of the rejections as it applies to these claims is respectfully requested.

Applicants respectfully traverse the grounds of the rejection as it applies to claims 29 and 30. Claims 29 and 30 depend on claim 54, which in turn depends on claim 1. Claim 1 recites that the protein comprise the sequence of SEQ ID NO:2 or an analog thereof with conservative amino acid substitutions and which retains the function of the protein of SEQ ID NO:2. Therefore, through this chain of dependency, claims 29 and 30 also require the element of SEQ. ID NO:2.

The structures encompassed by SEQ ID NO:2 and analogs thereof with conservative amino acid substitutions are neither overly broad nor structurally limitless. The Examiner's rejection is moot in view of the claim amendments to identify the structure of FADD. Applicants respectfully request that the Examiner withdraw the rejections.

Claim 45 is rejected for reciting the limitation, "having conservative amino acid substitutions at amino acids 1 to 120 and 122 to 208" on the ground that the specification allegedly does not appear to support conservative amino acid substitutions in the claimed mutein. Applicants respectfully traverse. Applicants direct the Examiner's attention to page 16, lines 3 to 7 which recites:

> It is understood that functional equivalents of the protein also shown in Figure 2A, the 23.3 kD purified protein, or the polypeptide fragments thereof, e.g., as shown in Figure 2A and described in Table 1, also are within the scope of this invention. One such equivalent includes the fragments described above having a $V^{121} \Rightarrow N^{121}$ alteration.

Page 8, line 28 to page 9, line 15 of the specification describes the proteins, peptides and biological equivalents thereof. Applicants maintain that the specification on pages 8, 9 and 16 describes the invention of the claim. Removal of the rejection is respectfully requested.

35 U.S.C. § 112, Second Paragraph

Claims 1, 3-5, 21, 37-39, 41-43, 48-49 and 54-56 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly failing to specifically point out and distinctly claim the subject matter of the claim. Applicants respectfully direct the Examiner's attention to pages 13-15 of the specification, where it is described that FADD regulates apoptosis, and the structure of FADD is shown in Figure 2A (SEQ ID NO:2), and fragments of the FADD polypeptide are shown in Figure 2A that comprise the "death domain" as underlined in the Figure. The specification also describes the material element of FADD as the underlined "death domain" or analogs thereof, as shown in Figure 2A, and that it induces or inhibits apoptosis. Applicants respectfully request that the Examiner withdraw the rejection.

Claims 3, and 37-43 stand rejected on the ground that they are dependent on claim 1, and that the "analogs" recited therein allegedly make the claim "open to the inclusion of other amino acid residues even in major amounts." Applicants respectfully traverse the rejection. The term "analogs" as used in claims 3 and 37-43, is further modified by the phrase, "having conservative

amino acid substitutions and the analog binds to the cytoplasmic domain of a Fas receptor." The complete description of the claimed analog clearly does not encompass indiscriminate amino acid substitutions. The analog must maintain its function. Any amino acid substitution made cannot affect the binding capability of the protein or polypeptide. It is well within the skill of the art to make analogs of the protein of SEQ ID NO 2, and analyze function, using the teachings of the specification. Applicants' respectfully request that the Examiner withdraw the rejection.

Claims 37-43 stand further rejected as allegedly vague and indefinite for not including a SEQ ID NO in each claim. Applicants have amended claims 37-43 to include "SEQ ID NO:2" to further identify each fragment. In view of the claim amendments, Applicants respectfully request that the Examiner withdraw the rejection.

New Claim Objections

Claim 57 is objected to under 37 C.F.R. § 1.75(c), for being in improper dependent form for failing to further limit the subject matter of a previous claim. Claims 57, 58 and 60 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to clarify what type of analysis takes place. Claims 57 and 60 are further rejected under 35 U.S.C. § 112, second paragraph, as allegedly containing no antecedent basis for the limitation "modulates the cellular function regulated by the Fas receptor pathway."

Without conceding the correctness of the Examiner's position and merely to expedite allowance of the claims, claims 57 has been canceled without prejudice or disclaimer. Claims 58 and 60 have been amended to overcome the objections of the office. Claim 60 depends on amended claim 58. Removal of the rejection is respectfully requested.

III. CONCLUSION

If a telephone interview would advance prosecution of the subject application, the Examiner is invited to telephone the undersigned at the number provided below.

In the unlikely event that the transmittal letter is separated from this document and/or the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to

charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-0974** referencing attorney docket no. 128019107020. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Date: July 16, 1999

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